

## 35A Am. Jur. 2d Food § 1

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### Food

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#### I. Overview

### § 1. “Food” defined

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#### West’s Key Number Digest

West’s Key Number Digest, Food  0.5

The word “food” is a general term that applies to all that is eaten to nourish the body.<sup>1</sup> The Federal Food, Drug, and Cosmetic Act defines food as (1) articles used for food or drink for human beings or other animals, (2) chewing gum, and (3) articles used for components of any such article.<sup>2</sup>

The term includes frog legs,<sup>3</sup> frozen egg yolks,<sup>4</sup> cheese,<sup>5</sup> syrup,<sup>6</sup> sausage,<sup>7</sup> cream of tartar,<sup>8</sup> coffee grounds,<sup>9</sup> candy, sweetmeats, preserves, and other confectionery,<sup>10</sup> corn meal, poppy seeds, caraway seeds, and corn grits,<sup>11</sup> and oleo oil.<sup>12</sup> Manufactured ready-to-eat smoked and cured fishery products constituted “food” as defined by the FDCA.<sup>13</sup>

The term “food” does not include tobacco<sup>14</sup> or wine.<sup>15</sup> Moreover, water is not a food within the meaning of one state’s food law.<sup>16</sup>

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#### Footnotes

<sup>1</sup> Pollock v. City of Mansfield, 71 So. 2d 706 (La. Ct. App. 2d Cir. 1954); Commonwealth v. Pflaum, 236 Pa. 294, 84 A. 842 (1912); Liggett & Myers Tobacco Co. v. Cannon, 132 Tenn. 419, 178 S.W. 1009 (1915).

<sup>2</sup> 21 U.S.C.A. § 321(f).

<sup>3</sup> U.S. v. 76,552 Pounds of Frog Legs, 423 F. Supp. 329 (S.D. Tex. 1976).

<sup>4</sup> U.S. v. 1,200 Cans Pasteurized Whole Eggs by Frigid Food Products, Inc.—Detroit, Mich., 339 F. Supp. 131 (N.D. Ga. 1972).

<sup>5</sup> U.S. v. Union Cheese Co., 902 F. Supp. 778 (N.D. Ohio 1995).

<sup>6</sup> McDermott v. State, 143 Wis. 18, 126 N.W. 888 (1910), rev’d on other grounds, 228 U.S. 115, 33 S. Ct. 431, 57 L. Ed. 754 (1913).

- <sup>7</sup> *Armour & Co. v. Bird*, 159 Mich. 1, 123 N.W. 580 (1909).
- <sup>8</sup> *State Board of Pharmacy v. Gasau*, 195 N.Y. 197, 88 N.E. 55 (1909).
- <sup>9</sup> *Harkey v. State*, 90 Tex. Crim. 212, 234 S.W. 221, 17 A.L.R. 1276 (1921) (coffee grounds intended to be reused in making coffee are within the ambit of a statute punishing anyone who mingles any noxious substance with any drink, food, or medicine, with the intent to kill or injure any other person).
- <sup>10</sup> *Crackerjack Co. v. City of Chicago*, 330 Ill. 320, 161 N.E. 479, 58 A.L.R. 287 (1928); *Commonwealth v. Pflaum*, 236 Pa. 294, 84 A. 842 (1912).
- <sup>11</sup> *U.S. v. H. B. Gregory Co.*, 502 F.2d 700 (7th Cir. 1974).
- <sup>12</sup> *Pittsburgh Melting Co v. Totten*, 248 U.S. 1, 39 S. Ct. 3, 63 L. Ed. 97 (1918).
- <sup>13</sup> *U.S. v. N.Y. Fish, Inc.*, 10 F. Supp. 3d 355 (E.D. N.Y. 2014).
- <sup>14</sup> *Liggett & Myers Tobacco Co. v. Cannon*, 132 Tenn. 419, 178 S.W. 1009 (1915).
- <sup>15</sup> *Commonwealth v. Kebort*, 212 Pa. 289, 61 A. 895 (1905).
- <sup>16</sup> *Sheffer v. City of Harrisburg*, 60 Pa. D. & C.2d 725, 1971 WL 14578 (C.P. 1971).

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